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1 postings” on platforms such as LinkedIn. Elevate uses this and other unfair and deceptive acts  
2 or practices to recruit and enroll Washingtonians and students across the country in its  
3 bootcamp.

4 1.3. Most of Elevate’s students finance their educations through income share  
5 agreements (“ISAs”), which require them to pay a portion of their income to Elevate after they  
6 graduate or otherwise depart the bootcamp. Elevate’s ISA program was designed and  
7 implemented by defendant Leif Technologies, Inc. (“Leif”). Elevate, with Leif’s assistance,  
8 engages in unfair or deceptive acts and practices in the origination of ISAs issued to borrowers  
9 in Washington and across the country. Because Elevate is not licensed by Washington’s private  
10 vocational school regulator, its ISAs issued to Ms. Zeng and other Washingtonians are  
11 unenforceable by law. Moreover, Elevate’s ISAs contain a provision that renders them voidable  
12 under Washington law at the option of the student borrower.

13 1.4. Nevertheless, both Elevate and Leif employ a variety of unfair and deceptive  
14 practices in attempts to enforce ISAs against Washington borrowers, including Ms. Zeng.  
15 Elevate’s and Leif’s unfair and deceptive acts or practices include misrepresentations about the  
16 validity and enforceability of ISAs, coarse and threatening emails, and threats to take actions  
17 that they are not legally permitted to take.

18 1.5. Elevate and Leif have also unconscionably, unfairly, and in violation of  
19 Washington public policy attempt to limit the ability of borrowers, including Ms. Zeng, to  
20 protect themselves. For example, Elevate and Lief have (a) omitted language from their ISAs  
21 required by the Federal Trade Commission’s “Holder Rule,” which preserves claims and  
22 defenses against any subsequent purchasers of the ISAs; (b) inserting language that purports to  
23 eliminate cancellation and refund policies required under Washington law; and (c) inserting a  
24 clause that purports to require borrowers to fully comply and repay with the ISA even if Elevate  
25 and Leif breach their own obligations under the ISA.

26 1.6. Ms. Zeng therefore brings this action pursuant to RCW 19.86.090, seeking  
27 damages, and in her capacity as a “private attorney general” under that statute to seek injunctive

1 relief protecting all Washingtonians from the unfair and deceptive acts and practices described  
2 herein.

## 3 II. PARTIES

4 2.1. Plaintiff Fanxin (“Amy”) Zeng is a natural person and at all relevant times has  
5 been a resident of Washington living in King County and/or Pierce County.

6 2.2. Defendant Top Applicant, Inc., d/b/a Elevate, Elevate Hire, and Top Applicant  
7 (hereinafter, “Elevate”) is a corporation organized under the laws of Delaware, with its primary  
8 place of business located at 381 East Barbarita Ave., Gilbert, Arizona 85234. Elevate advertises  
9 and does business under various trade names, including “Elevate,” “Elevate Hire,” and “Top  
10 Applicant.” For example, Elevate’s LinkedIn profile and various LinkedIn postings use the  
11 trade name “Elevate,” while its website and email address use “elevatehire.co,” and ISAs that  
12 it entered into with Ms. Zeng (and upon information and belief others), uses “Top Applicant”  
13 without including “Inc.” Upon information and belief, Elevate has not registered with or sought  
14 authorization from the Washington Secretary of State to conduct business in Washington.

15 2.3. Defendant Leif Technologies, Inc. (“Leif”) is a corporation organized under the  
16 laws of Delaware, with its headquarters at 829 Washington St, New York City, New York,  
17 10014. Upon information and belief, Leif has not registered with or sought authorization from  
18 the Washington Secretary of State to conduct business in Washington.

## 20 III. JURISDICTION AND VENUE

21 3.1. The Court has personal jurisdiction over Elevate because it advertised to and  
22 entered into a contract with Ms. Zeng, a resident of King County, Washington, thereby  
23 purposefully availing itself of the benefits and protections of the State of Washington by  
24 transacting business with Ms. Zeng and purporting to assume continuing obligations to Ms.  
25 Zeng, and demanding continued obligations from Ms. Zeng, in King County. Elevate also  
26 purposely directed its activities at Ms. Zeng and others in Washington by placing job postings  
27 on LinkedIn with a “Seattle” location and publicly representing that it had placed its graduates

1 into roles with companies located in Washington, including Microsoft. The Court also has  
2 jurisdiction over Elevate pursuant to RCW 28C.10.150, which provides that “A private  
3 vocational school, whether located in this state or outside of this state, that conducts business  
4 of any kind, makes any offers, advertises, solicits, or enters into any contracts in this state or  
5 with a resident of this state is subject to the jurisdiction of the courts of this state for any cause  
6 of action arising from the acts.” Finally, the Court has personal jurisdiction over Elevate  
7 pursuant to RCW 19.86.160, which provides: “Personal service of any process in an action  
8 under this chapter may be made upon any person outside the state if such person has engaged  
9 in conduct in violation of this chapter which has had the impact in this state which this chapter  
10 reprehends. Such persons shall be deemed to have thereby submitted themselves to the  
11 jurisdiction of the courts of this state within the meaning of RCW 4.28.180 and 4.28.185.”

12 3.2. The Court has personal jurisdiction over Leif because it has purposely directed  
13 communications to Ms. Zeng in King County, Washington, seeking to enforce a contract with  
14 her, and purposefully availed itself of the benefits and protections of the State of Washington.  
15 The Court also has personal jurisdiction over Leif pursuant to RCW 19.86.160, which provides:  
16 “Personal service of any process in an action under this chapter may be made upon any person  
17 outside the state if such person has engaged in conduct in violation of this chapter which has  
18 had the impact in this state which this chapter reprehends. Such persons shall be deemed to  
19 have thereby submitted themselves to the jurisdiction of the courts of this state within the  
20 meaning of RCW 4.28.180 and 4.28.185.”

21 3.3. This Court has subject matter jurisdiction over this matter pursuant to RCW  
22 2.08.010.

23 3.4. Venue is proper in this Court pursuant to RCW 4.12.025(1) because the  
24 Defendants transacted business in King County by advertising to, entering into a contract with,  
25 and seeking to enforce that contract against Ms. Zeng.  
26  
27

#### IV. FACTUAL BACKGROUND

4.1. Elevate operates a 10-week, part-time, online “bootcamp” in which it offers training to consumers in Washington and across the nation to prepare them for entry-level positions as SDRs in technology companies (the “SDR Bootcamp”). SDRs are responsible for outbound prospecting—that is, they research and reach out to potential new clients who might be interested in the products or services sold by the company for which they work.

4.2. Upon information and belief, the SDR Bootcamp is intended for high school graduates, as a high school diploma (and often an associate’s or bachelor’s degree) is generally a requisite for hiring in SDR positions. The SDR Bootcamp’s “curriculum covers CRM, prospecting, researching target accounts, cold calls, and discovery calls.”<sup>1</sup>

4.3. Elevate’s students can pay for the SRD Bootcamp either in cash up front, or by entering into an ISA. According to Elevate’s Course Report page, students “may opt to pay the upfront cost of \$15,000 for all three tiers of the program. They also have the option to enroll with an Income Share Agreement (ISA) where they pay a certain percentage of earnings after they land a career that pays \$60,000 or more.”<sup>2</sup>

4.4. Upon information and belief, Leif assisted Elevate in designing its ISA program, and then implemented it. Leif publicly represents that it “helps schools design custom [ISA] programs, manage payments, access financing, and more.”<sup>3</sup> Leif explains that “[t]rying to manage ISAs in-house is difficult,”<sup>4</sup> which would seem particularly true for Elevate, which appears to be literally run from its CEO’s house. Leif therefore represents to schools that “[w]e work with you to design your ISA program and always ensure you are kept up-to-date on the latest regulatory guidelines,”<sup>5</sup> and provide “[s]eamless implementation and management of your ISA program using our best-in-class platform.”<sup>6</sup> Leif represents that its services allow

<sup>1</sup> <https://www.coursereport.com/schools/elevate-hire>.

<sup>2</sup> <https://www.coursereport.com/schools/elevate-hire>.

<sup>3</sup> <https://leif.org/>.

<sup>4</sup> <https://leif.org/schools>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

1 schools to “Drive Greater Enrollment.”<sup>7</sup> Upon information and belief Leif provided these  
 2 services to Elevate, drafted the form used from the ISA issued to Ms. Zeng, actively participated  
 3 in making Elevate’s plans to market ISAs and use them to drive student enrollment, and actively  
 4 managed Elevate’s ISA program.

5 **A. Elevate’s SDR Bootcamp Is an Unlicensed Private Vocational School.**

6 4.5. Elevate purports to provide education, in the form of a “program of training,  
 7 instruction, or study,” *see* RCW 28C.10.020(4), to prepare students to obtain employment and  
 8 work as SDRs in the technology sector. Elevate therefore falls squarely within the definition of  
 9 “private vocational school,” which “means *any* location where an entity is offering  
 10 postsecondary education in *any form or manner* for the purpose of instructing, training, or  
 11 preparing persons for *any vocation or profession*.” RCW 28C.10.020(7) (emphasis added).

12 4.6. Elevate also falls squarely within the statutory licensing requirements of RCW  
 13 28C.10, which requires that all out-of-state institutions offering education or educational  
 14 credentials to Washington residents be licensed by Washington’s Workforce Training and  
 15 Continuing Education Coordinating Board (“WTCECB”). RCW 28C.10.060 provides in  
 16 relevant part that “[a]ny entity desiring to operate a private vocational school *shall apply* for a  
 17 license to the agency.” (Emphasis added.) RCW 28C.10.020(12) defines “to operate” in  
 18 relevant part as “to establish, keep, or maintain *any facility or location* where, *from, or through*  
 19 *which education is offered or educational credentials are offered or granted to residents of*  
 20 *this state*.” (Emphasis added.)

21 4.7. RCW 28C.10.090 provides that “[a] private vocational school, *whether located*  
 22 *in this state or outside of this state*, shall not conduct business of any kind, make any offers,  
 23 advertise or solicit, or enter into any contracts unless the private vocational school is licensed  
 24 under this chapter.” (Emphasis added.) Accordingly, the statutory language requires licensure  
 25 of all out-of-state institutions offering distance education services to Washingtonians.  
 26 Moreover, both RCW 28C.10.060 and RCW 28C.10.090 use the term “shall,” which is

27 <sup>7</sup> *Id.*

1 regularly interpreted by Washington courts to be mandatory, and eliminates discretion. None  
 2 of the limited exemptions from application of RCW 28C.10, found in RCW 28C.10.030, apply  
 3 to Elevate. Nor do any of the exemptions found in the WTCECB's regulations.

4 4.8. Elevate does not appear on the WTCECB's published list of licensed private  
 5 career schools, which is published at [https://www.wtb.wa.gov/private-career-schools/student-](https://www.wtb.wa.gov/private-career-schools/student-resources/licensed-schools/)  
 6 [resources/licensed-schools/](https://www.wtb.wa.gov/private-career-schools/student-resources/licensed-schools/). Upon information and belief, Elevate is not licensed or authorized  
 7 by the WTCECB to operate in Washington. Upon information and belief, Elevate did not  
 8 contact the WTCECB about licensing prior to advertising to and enrolling Ms. Zeng in its SDR  
 9 Bootcamp.

10 4.9. Elevate has operated in Washington without applying for or receiving licensure  
 11 from the WTCECB, and has violated RCW 28C.10.090 by advertising, making an offer to and  
 12 entering into a contract with Ms. Zeng and upon information and belief other Washington  
 13 residents without the requisite licensure.

14 4.10. RCW 28C.10.180 specifies certain consequences for Elevate's failure to become  
 15 licensed with the WTCECB, providing that

16 A note, instrument, or other evidence of indebtedness or contract relating to  
 17 payment for education is not enforceable in the courts of this state by a private  
 18 vocational school or holder of the instrument unless the private vocational school  
 19 was licensed under this chapter at the time the note, instrument, or other evidence  
 20 of indebtedness or contract was entered into.

21 4.11. In addition, Elevate's failure to comply with the licensing and other provisions  
 22 of RCW 28C.10 are *per se* violations of the CPA. See RCW 28C.10.210.

23 **B. Elevate Engages in Deceptive and Unfair Advertising and Recruiting Practices.**

24 4.12. Elevate - without disclosing that it is an unregistered trade name of Top  
 25 Applicant, Inc. - regularly posts or posted advertisements for its SDR Bootcamp in the form of  
 26 job postings on LinkedIn, including those with a designated location of "Seattle."

27 4.13. An example of Elevate's LinkedIn job postings is attached hereto as Exhibit A,  
 and upon information and belief, Elevate published job postings on LinkedIn in a substantially



1 similar form with locations in Washington, including Seattle. Elevate’s job postings represent  
 2 that accepted applicants “will be funneled into our sales development training to sharpen your  
 3 skills and graduate into an SDR role with a comp range of \$60-\$82k for the first year.” Exhibit  
 4 A. This statement, in the context of a job posting, creates the false net impression that the  
 5 applicant will “graduate into an SDR role” with Elevate – the company that posted the job. The  
 6 false impression that Elevate hires its graduates is reinforced by Elevate’s provision of a “[b]ase  
 7 pay range,” and listing of “[f]eatured benefits” that include medical, vision, and dental  
 8 insurance, and a 401k. *Id.* Upon information and belief, substantially similar (if not identical)  
 9 job postings were posted on LinkedIn and Craigslist in locations throughout the United States  
 10 and were specifically designed to state (falsely) that Elevate had job openings near where the  
 11 prospective applicant resided.

12 4.14. Elevate’s LinkedIn job postings are public advertisements that create the net  
 13 impression that Elevate was seeking to hire applicants at the salaries, and with the benefits,  
 14 posted. Moreover, by advertising a job in “Seattle,” Elevate specifically targeted Washington  
 15 consumers like Ms. Zeng. Elevate’s job postings further create the deceptive net impression  
 16 that Washingtonians can “graduate into an SDR role” at one of the Washington-based  
 17 companies whose trade names and logos Elevate displays on its website in a list of “Companies  
 18 That Hire Elevate Members,”<sup>8</sup> such as Microsoft,<sup>9</sup> Outreach,<sup>10</sup> Traject,<sup>11</sup> and Zoominfo.<sup>12</sup>

19 4.15. Elevate’s job posting advertisements are deceptive under the CPA because they  
 20 have the capacity to deceive a substantial portion of the public. *See State v. Mandatory Poster*  
 21 *Agency, Inc.*, 199 Wash.App. 506, 518-19, 398 P.3d 1271 (2017). For that very reason,  
 22 Washington statutes and regulations explicitly prohibit private vocational schools from  
 23 publishing advertisements in the help-wanted sections of newspapers or other publications. *See*

24 \_\_\_\_\_  
 25 <sup>8</sup> See <https://elevatehire.co/whyelevate>.

26 <sup>9</sup> Microsoft is based in Redmond, Washington.

27 <sup>10</sup> Outreach is headquartered in Seattle, Washington. *See* <https://www.outreach.io/company/contact>.

<sup>11</sup> Traject is headquartered in Bellevue, Washington. *See* <https://bytraject.com/about/>.

<sup>12</sup> Zoominfo is headquartered in Vancouver, Washington and also has offices in Bellevue. *See*  
<https://www.zoominfo.com/b2b/faqs/business>.



1 RCW 28C.10.110(2); WAC 490-105-170(3). Regulations in Arizona (where Elevate is  
 2 headquartered), Ariz. Admin. Code R4-39-304.B.1, California (where Elevate's own LinkedIn  
 3 page publicly represents that it is headquartered),<sup>13</sup> Cal. Educ. Code §94897(f), and other states  
 4 also codify this fundamental rule. Washington law also prohibits private vocational schools like  
 5 Elevate from representing "falsely, directly or by implication, that the school is an employment  
 6 agency, is making an offer of employment or otherwise is attempting to conceal the fact that  
 7 what is being represented are course offerings of a school." RCW 28C.10.110(2)(c).

8 4.16. Ms. Zeng came across an Elevate LinkedIn job advertisement with a location  
 9 designated as "Seattle" as part of her broader job search in late March or early April 2021. The  
 10 job posting was substantially similar to the job posting attached as Exhibit A.

11 4.17. Ms. Zeng contacted Elevate by replying to a link in the company's LinkedIn job  
 12 posting, believing that she would be applying for a job. Had Ms. Zeng not seen the deceptive  
 13 job posting or known the truth, she would not have submitted an application to Elevate or had  
 14 any interaction with it, much less eventually enrolled in the SDR Bootcamp. Upon information  
 15 and belief, other consumers in Washington have also been deceived in a similar manner.

16 4.18. On April 2, 2021, Elevate CEO Norman Rodriguez sent an email to Ms. Zeng,  
 17 offering her a place in the SDR Bootcamp and stating:

18 Hi Amy,

19 On behalf of the team, I am excited to offer you a seat in the April 2021  
 20 (A2021) cohort of Elevate. Congratulations! You earned your seat as one of  
 the top 10% of applicants who applied to the Bootcamp.

21 As next steps, we'll need you to lock in your seat asap by completing an  
 22 application on Leif, our ISA provider: [Leif - Application & Account Setup](#)

- 23 • Your placement in the Elevate SDR Bootcamp is tentative until you  
 24 complete your account and accept our calendar invitation.

25 Once this assignment is complete we'll review your reply and get back to you

26 <sup>13</sup> Elevate's LinkedIn page represents that its headquarters (and indeed its only listed location) is in San  
 27 Francisco, California - though it does not provide a street or mailing address there. *See*  
<https://www.linkedin.com/company/elevatehire-co/about/>.

1 with the final decision on your enrollment.

2 Talk soon and good luck!  
3 -Norman

4 4.19. This email creates a false impression that Elevate's admissions process is  
5 selective, that numerous other potential students were waiting to take the consumer's tentative  
6 place, and that completing the enrollment process is therefore urgent. In truth and in fact,  
7 admission to the SDR Bootcamp does not require a placement test, and there is "[n]o previous  
8 experience required to apply."<sup>14</sup> Instead, "Elevate Hire is perfect for complete beginners or  
9 individuals having a hard time breaking into sales due to lack of experience," and "[t]here are  
10 no technical requirements to get into Elevate Hire."<sup>15</sup> "You don't need experience or a degree  
11 to be accepted" into the SDR Bootcamp.<sup>16</sup>

12 4.20. The link in Mr. Rodriguez's email above is not for an enrollment agreement as  
13 one would expect to "lock in your seat," but an application for an ISA through Leif. This email  
14 further deceptively characterizes application for an ISA through Leif as an "assignment" that is  
15 part of the admission and/or enrollment process.

16 4.21. Upon information and belief, the above-quoted email is Elevate's standard  
17 communication to potential students who have been "accepted" into the SDR Bootcamp.

18 4.22. Upon information and belief, each of Mr. Rodriguez's actions alleged herein  
19 were undertaken in the course and scope of his employment with Elevate.

20 4.23. Acting on Mr. Rodriguez's email, Ms. Zeng completed Leif's ISA application  
21 and signed an ISA the same day. The ISA contains a mis-spelling of Ms. Zeng's first name, and  
22 the "Company" is listed as "Top Applicant."

23 4.24. Upon information and belief, other students who applied to and/or enrolled in  
24 the SDR Bootcamp were required to sign similar or identical ISAs.

25 4.25. Upon information and belief, the Elevate SDR has not been operating in

26 <sup>14</sup> <https://www.coursereport.com/schools/elevate-hire>.

27 <sup>15</sup> *Id.*

<sup>16</sup> <https://career karma.com/schools/elevate-sdr-bootcamp/>.

1 Washington for at least two years, and the Zeng ISA financially benefits one or more persons  
2 or entities that have an ownership interest in Elevate. However, Mr. Rodriguez’s April 2, 2021  
3 email induced Ms. Zeng to obtain a specific student loan product – i.e., the Zeng ISA – before  
4 any showing could be made that she had “exhausted all federal aid options and has been denied  
5 noninstitutional private commercial loan products.”

6 4.26. Moreover, by making ISAs and its associated employment and income  
7 guarantees central to its advertising and recruitment, as well as including an ISA application as  
8 an “assignment” in the admissions process, Elevate unlawfully used “the availability of  
9 financial aid as an inducement to recruitment or enrollment.” WAC 490-105-170(2)(f).

10 4.27. While Ms. Zeng “locked in” her place in Elevate’s SDR Bootcamp by applying  
11 for and signing an ISA, she does not remember being presented with or signing, and cannot  
12 locate, an enrollment agreement. Accordingly, upon information and belief Ms. Zeng was not  
13 presented with, and did not sign, an enrollment agreement. Thus, to the extent Ms. Zeng was  
14 ever enrolled in Elevate’s SDR Bootcamp, it appears that the Zeng ISA operated as the  
15 enrollment agreement. *See* WAC 490-105-043 (“An enrollment agreement is any agreement  
16 that creates a binding obligation to purchase a course of instruction from a school.”). Use of the  
17 Zeng ISA as an enrollment agreement is unlawful under Washington law governing private  
18 vocational institutions. *See* RCW 28C.10.110(2)(b) (providing that it is an unfair business  
19 practice to “[u]se an enrollment contract form, catalog, brochure, or similar written material  
20 affecting the terms and conditions of student enrollment other than that previously submitted to  
21 the agency and authorized for use”). Moreover, upon information and belief Elevate did not  
22 submit any enrollment contract form or similar document for authorization from the WTCECB,  
23 and the use of any unauthorized enrollment form contract would be unlawful. Accordingly,  
24 Ms. Zeng was never lawfully enrolled in the SDR Bootcamp.

25 4.28. Ms. Zeng applied to Elevate (thinking it was a job opportunity) as part of her job  
26 search. That search was quickly successful, entirely separate from her interactions with Elevate.

27 On April 1, 2021, the day before she signed her ISA with Elevate, Ms. Zeng received an email  
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1 from the company that is now her employer following up on her prior application and seeking  
2 to schedule an interview. On April 12, that company offered Ms. Zeng a job, which Ms. Zeng  
3 accepted on April 13. Ms. Zeng obtained her current employment using her own efforts, without  
4 any assistance from Elevate or its employees, and prior to participation in Elevate's SDR  
5 Bootcamp.

6 4.29. Mr. Rodriguez sent his "welcome" email to Ms. Zeng and other members of her  
7 class on April 12, 2021, the same day she received her job offer. Mr. Rodriguez emailed out the  
8 group's first assignment on April 13, 2021, the same day that Ms. Zeng accepted a job with her  
9 current employer. It is therefore clear that Ms. Zeng's employment is not the result of any  
10 training by or affiliation with Elevate, and was secured before she received any instruction or  
11 career assistance from Elevate.

12 4.30. Having independently secured employment before starting classes at Elevate,  
13 Ms. Zeng informed Mr. Rodriguez that she no longer wished to enroll or participate in the SDR  
14 Bootcamp. However, Mr. Rodriguez persuaded her not to withdraw from the course, stating  
15 that she could still attend and benefit from the SDR Bootcamp even though she had already  
16 secured employment. Ms. Zeng relied upon Mr. Rodriguez's advice, and briefly participated in  
17 the SDR Bootcamp. However, Ms. Zeng quickly found that the SDR Bootcamp did not provide  
18 her with worthwhile instruction, particularly in light of her prior work experience, the fact that  
19 she had already secured employment, and was continuing to develop her skills on the job. She  
20 therefore quickly withdrew from the SDR Bootcamp.

21 4.31. Mr. Rodriguez's apparent motivation in cajoling Ms. Zeng to stay "enrolled"  
22 despite the fact that she had previously and independently secured employment lies in one of  
23 several unconscionable provisions of the Zeng ISA, which states: "In the event of your  
24 withdrawal or other separation from the Program or Training provided pursuant to this  
25 Agreement, you *may* be entitled to a pro rata reduction in your Income Share or the length of  
26 the Payment Term, *at the sole discretion of Company.*" (Emphasis added.) It appears that  
27 according to Elevate, as long as it tricked Ms. Zeng into participating in the SDR Bootcamp,

1 however briefly and despite her pre-existing and independently secured employment, Elevate  
 2 was entitled to collect 10% of her gross income each month for three years at its “sole  
 3 discretion.” As discussed further below, Elevate and its agent(s) have sought to enforce the  
 4 Zeng ISA.

5 4.32. Mr. Rodriguez’s representations advising and encouraging Ms. Zeng to  
 6 participate in the SDR Bootcamp despite having independently secured employment before  
 7 classes started, thereby purporting to trap her in an unconscionable agreement, were unfair and  
 8 deceptive. Moreover, Elevate has sought to enforce its ISA against at least one other student  
 9 who independently secured employment and withdrew early in Elevate’s SDR Bootcamp. Upon  
 10 information and belief, this is Elevate’s standard operating procedure and has or had the  
 11 capacity to harm other persons.

12 **C. Elevate and Leif Engage in Deceptive and Unfair Practices in Advertising and**  
 13 **Originating ISAs.**

14 **1. The ISA Falsely and Deceptively states that it is an enforceable contract.**

15 4.33. RCW 28C.10.180 provides that “A note, instrument, or other evidence of  
 16 indebtedness or contract relating to payment for education is not enforceable in the courts of  
 17 this state by a private vocational school or holder of the instrument unless the private vocational  
 18 school was licensed under this chapter at the time the note, instrument, or other evidence of  
 19 indebtedness or contract was entered into.”

20 4.34. As detailed above, Elevate was not licensed under RCW 28C.10 at the time the  
 21 Zeng ISA was entered into. However, the Zeng ISA falsely and deceptively states it is an  
 22 enforceable contract relating to the payment for education. For example, the first page of the  
 23 Zeng ISA states that “THIS IS A LEGAL CONTRACT” and refers to “THE AMOUNT YOU  
 24 MUST PAY UNDER THIS AGREEMENT.” The Zeng ISA further states that “[e]xcept as  
 25 otherwise provided in this Agreement, this Agreement, and the rights and obligations of the  
 26 parties hereunder, will be binding upon and inure to the benefit of their respective successors,  
 27 assigns, heirs, executors, administrators and legal representatives,” and requires a borrower

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“verification” that “BY ENTERING INTO THIS AGREEMENT, I AM IRREVOCABLY AGREEING TO SHARE A FIXED PORTION OF MY FUTURE EARNED INCOME ... IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT.” The Zeng ISA therefore includes false and deceptive statements creating the net impression that it is, in fact, an enforceable agreement.

## 2. Elevate Misrepresents the Terms of the ISA.

4.35. Elevate’s LinkedIn page states that “we don’t get paid a dime until you land a role making over \$60,000”.<sup>17</sup> Similarly, Elevate’s website states that students who chose to finance their programs with an ISA rather than paying up front “only being [*sic.*] to pay dues *after* they land a \$60,000 job.”<sup>18</sup> These representations create a deceptive net impression that the student will only be responsible for making payments under their ISA when they are making \$60,000 per year – an amount that averages out to \$5,000 per month.

4.36. Instead, the Zeng ISA calls for payments once the student’s earned income reaches \$3,333.33 per month, “which is approximately equal to \$40,000.00 annually.” The Zeng ISA’s payment term is 36 months or until all payments total \$17,000 (the payment cap), whichever occurs first. Upon information and belief, the ISAs issued to Elevate’s other students also require payments once the student’s earned income reaches \$3,333.33 per month.

4.37. Elevate therefore appears to be engaged in a bait-and-switch by advertising financing under which the borrower need not pay until they are making \$60,000 per year, but then requiring an ISA with monthly payments that are triggered when the borrower is making the monthly equivalent of \$40,000 (not \$60,000) per year. “It is a violation of the CPA to misrepresent the terms of a transaction or to fail to disclose material terms.” *State v. Kaiser*, 161 Wn. App. 705, 722, 254 P.3d 850, 859 (2011).

## 3. The Zeng ISA is voidable, and Ms. Zeng has exercised her right to void it.

4.38. The Zeng ISA contains a choice of law provision that states that that “[t]he

<sup>17</sup> <https://www.linkedin.com/company/elevatehire-co/about/>.

<sup>18</sup> See <https://elevatehire.co/financing>.

1 validity, interpretation, construction and performance of this Agreement, ... and the rights and  
 2 obligations of the Parties under this Agreement shall be governed by, construed, and interpreted  
 3 in accordance with the laws of the State of New York, without giving effect to principles of  
 4 conflicts of law.”

5 4.39. To the extent Elevate contends that RCW 28C.10.180 does not apply and the  
 6 Zeng ISA is enforceable, RCW 28C.10.170 provides that “[i]f a contract or evidence of  
 7 indebtedness contains any of the following agreements, the contract is voidable at the option of  
 8 the student or prospective student: (1) That the law of another state shall apply....”

9 4.40. Because the Zeng ISA includes a choice of law provision stating that the law of  
 10 another state – namely, New York – shall apply, it is voidable pursuant to RCW 28C.10.170(1).

11 4.41. By letter of December 15, 2021, Ms. Zeng validly and lawfully exercised her  
 12 option to void the Zeng ISA.

13 4.42. Accordingly, even if the Zeng ISA was ever enforceable (which it was not), as  
 14 of December 15, 2021 it became void and unenforceable in its entirety.

15 **4. Elevate the Fails to Include Legally Required Holder Rule Language in its**  
 16 **ISAs.**

17 4.43. The Federal Trade Commission’s (“FTC”) Rule on the Preservation of Claims  
 18 and Defenses, known colloquially as the “Holder Rule,” requires creditors who finance  
 19 consumers’ purchases of their goods and services to include in the financial contract language  
 20 stating: “ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO  
 21 ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE  
 22 SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE  
 23 PROCEEDS HEREOF....” 16 C.F.R. § 433.2(a) (emphasis in original).

24 4.44. The Zeng ISA is a “financed sale” and a “credit sale” as those terms are defined  
 25 and used in the Holder Rule, and the Holder Rule therefore required inclusion of the above-  
 26 quoted language in the Zeng ISA. Upon information and belief, ISAs issued by Elevate (with  
 27 the support, approval, and assistance of Leif) to other Washingtonians to finance participation  
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1 in the SDR Bootcamp are also “financed sales” and “credit sales” as those terms are defined  
2 and used in the Holder Rule.

3 4.45. The Zeng ISA does not include the required Holder Rule language. Upon  
4 information and belief, ISAs issued by Elevate (with the support, approval, and assistance of  
5 Leif) to other Washingtonians do not include the required Holder Rule language.

6 4.46. Failure to include the required Holder Rule language in the Zeng ISA is an unfair  
7 act or practice under the CPA because it is “immoral, unethical, oppressive, or unscrupulous,”  
8 *Rush v. Blackburn*, 190 Wn. App. 945, 962–63, 361 P.3d 217 (2015), and because it is been  
9 declared an unfair practice by the FTC, whose decisions the Legislature has instructed  
10 Washington courts to examine when interpreting the CPA. *See* RCW 19.86.920.

11 4.47. Elevate’s failure or refusal to include the required Holder Rule language in the  
12 Zeng ISA and ISAs issued to other borrowers in Washington and across the country is  
13 particularly alarming in light of Mr. Rodriguez’s threat to sell borrowers ISAs to a “hedge fund  
14 that specializes in distressed assets,” which threatens to strip borrowers of their ability to protect  
15 themselves from debt collectors.

16 **D. Elevate’s and Leif’s ISAs Are Unconscionable and Contain Terms that Are**  
17 **Unconscionable and Violate Washington Public Policy.**

18 4.48. Section 7 of the Zeng ISA is found on page five and is innocuously designated  
19 “ADDITIONAL PROVISIONS AFFECTING PAYMENTS.” Subsection d provides:

20 In the event of your withdrawal or other separation from the Program or Training  
21 provided pursuant to this Agreement, you may be entitled to a pro rata reduction in  
22 your Income Share or the length of the Payment Term, at the sole discretion of  
23 Company. You agree to give Company and Leif prompt notice of your withdrawal  
24 from the Program or Training and the effective date of your withdrawal.

25 4.49. In Washington, RCW 28C.10.050(2)(b) provides that the minimum standards  
26 for private vocational school operations include compliance with “a uniform statewide  
27 cancellation and refund policy as specified by the” WTCECB. WAC 490-105-130 implements  
this statute by setting forth the minimum refund and cancellation policies. These statutes and

1 regulations reflect the well-established principle that when a student withdraws from a school  
 2 before receiving the benefit of the course of study, it is unfair and unconscionable to require the  
 3 student to pay for the entire course.

4 4.50. Section 13 of the Zeng ISA is found on pages seven and either, is designated  
 5 “RETAINED RIGHTS,” and states:

6 No breach or the termination of this Agreement will affect the validity of any of  
 7 your accrued obligations owing to Company under this Agreement.  
 8 Notwithstanding termination of the Payment Term, Company shall retain all rights  
 9 to enforce your obligations under this Agreement, including the right to receive the  
 full amount of your Income Share owing hereunder based on your Earned Income  
 during the Payment Term.

10 4.51. This “RETAINED RIGHTS” provision renders the Zeng ISA so one-sided and  
 11 unfair as to be entirely unconscionable because it purports to require Ms. Zeng to pay on the  
 12 ISA even if Elevate or Leif breach or terminate it. This is particularly troubling because the  
 13 consideration recited for the Zeng ISA is that Elevate would provide her with training. For  
 14 example, the first page of the Zeng ISA specifically states that Ms. Zeng’s obligation is “[i]n  
 15 consideration of the program or training provided to you” and defines “program or training” to  
 16 mean “a program or service that provides you the opportunity to earn Qualified Monthly  
 17 Income,” and “refers to [the] SDR Bootcamp.” The Zeng ISA further states on page two:

18 Company agrees to provide you with the Program or Training, subject to the terms  
 19 and conditions of this Agreement. In return, you agree to pay Company: (a) a total  
 20 of 36.0 Monthly Payments on your Qualified Monthly Earned Income, subject to  
 21 reconciliation and your obligation to make additional payment(s) for any  
 underreported Earned Income, as described herein; or (b) until your total Monthly  
 Payments reach the Payment Cap, whichever occurs first (“Payment Satisfaction”).

22 4.52. The unfairness and unconscionability of the “RETAINED RIGHTS” and other  
 23 provisions of the Zeng ISA are particularly acute in this matter. As explained above, Ms. Zeng  
 24 secured employment on her own, prior to taking Elevate’s classes or receiving its training. Thus,  
 25 Elevate did not provide her with “a program or service that provides [her] the opportunity to  
 26 earn Qualified Monthly Income” because she was already both qualified and already hired for  
 27 her position before receiving any training from Elevate, and withdrew from the SDR Bootcamp

1 as soon as it became apparent that Elevate was not providing her with useful education.  
 2 Requiring Ms. Zeng to make payments pursuant to or comply with any other requirement of  
 3 the Zeng ISA

4 4.53. The Zeng ISA is further marked by procedural unconscionability. For example,  
 5 while the “Withdrawal” and “Retained Rights” provisions purport to strip consumers of rights  
 6 under Washington statutes, the Holder Rule, and fundamental principles of contract law, they  
 7 are buried deep within the ISA, and not called to the borrower’s attention in any meaningful  
 8 way. The procedural unconscionability of these and other provisions of the ISA are further  
 9 accentuated by (a) Elevate’s failure to follow the enrollment process and documentation  
 10 required by the WTCECB; (b) Elevate’s inducement of Ms. Zeng to obtain the Zeng ISA (that  
 11 financially benefits a person or entity with an ownership interest in Elevate) without first  
 12 showing that Ms. Zeng had been “denied noninstitutional private commercial loan products” as  
 13 required by RCW 28C.050(3); (c) the deceptive nature of Mr. Rodriguez’s April 2, 2021 email  
 14 creating a false impression of selectivity in the admission process and a false sense of urgency  
 15 to apply for the ISA and characterizing it as an “assignment”; (d) the lack of disclosures required  
 16 by federal and/or state law for the ISA as a credit product; and (e) the misrepresentations  
 17 contained within the Zeng ISA itself about its enforceability. Indeed, in one email seeking to  
 18 enforce the Zeng ISA Mr. Rodriguez stated his belief that “you probably haven’t read it....”

19 **E. Elevate and Leif Engage in Unfair and Deceptive Practices in Seeking to Enforce**  
 20 **the Unenforceable Zeng ISA.**

21 4.54. Elevate executives Norman Rodriguez (CEO) and Asher Alter (Co-Founder and  
 22 COO) personally communicate with borrowers to enforce ISAs, including without limitation  
 23 the Zeng ISA.

24 4.55. For example, on July 11, 2021 Elevate Co-Founder and Chief Operating Officer  
 25 Asher Alter sent an email to Ms. Zeng stating in relevant part that “you are nearing 90 days  
 26 since your first payment was due” and that Leif “will soon label your ISA as delinquent which  
 27 will cause them to send the loan to their collections department. Leif has you as a signatory to

1 a legally binding contract, meaning they will pursue the legal avenues at their disposal.” This  
2 email is deceptive in at least two ways:

- 3 a. First, it falsely states that Ms. Zeng had payments “due” under the unenforceable  
4 ISA, and that Elevate and/or Leif has the right and/or legal ability to enforce Ms.  
5 Zeng’s ISA.
- 6 b. Second, Mr. Alter represents that the Zeng ISA as a “loan,” which directly  
7 contradicts the Zeng ISA itself, which states that “THIS AGREEMENT DOES  
8 NOT CONSTITUTE A LOAN.” (Emphasis in original.) Accordingly, Elevate  
9 misrepresents whether the Zeng ISA is a “loan” in either the ISA contract  
10 document itself or in its attempts to collect on it. Either way, the company’s  
11 practice is unfair and deceptive.

12 4.56. Upon information and belief, Mr. Alter’s email to Ms. Zeng is a regular part of  
13 Elevate’s business and has been sent in the same or similar form to other former Elevate  
14 students, including those in Washington. This practice has the capacity for repetition, as well as  
15 the capacity to harm other consumers.

16 4.57. Upon information and belief, each of Mr. Alter’s actions alleged herein were  
17 undertaken in the course and scope of his employment for Elevate.

18 4.58. Mr. Rodriguez also personally communicates with borrowers seeking to enforce  
19 their ISAs. For example, on September 19, 2021 Mr. Rodriguez sent an email to Ms. Zeng  
20 stating:

21 Amy,

22 I understand that you would prefer to simply disappear on us now that you're  
23 comfortable in a role. Sadly, you really can't ghost your way out of a financial  
24 contract, this isn't a tinder date you are one and done with.

25 There are two ways this can go from here.

26 1) You man up, swallow your pride and embarrassment and contact us to  
27 ensure you are in compliance with your Leif contract and make clear you  
intend to pay the ISA as agreed upon.

2) You don't step up to the plate and hope this inconvenience just disappears. In that case, we will sell the right to your ISA to a hedge fund that specializes in distressed assets. They will sit on it and do nothing for a while because they know that you probably haven't read it and don't realize that if you remain maliciously out of compliance for a period of time, you then simply owe 100% upfront instead of 10% of your income for X months. Then they will come after you and your employer, as well as wreck your credit score for at least a decade and a half... Trying to skip town will put you in the penalty box for a long time, and you won't be able to get a mortgage, credit card or anything that requires financial trust. This will follow you, your SSN is attached to your ISA.

I get that this is extremely awkward and probably frustrating. A guy like you doesn't like to feel like a fool. But I'd strongly advise not backing yourself into a corner as you currently are. You are making choices that will have consequences.

You have till Wednesday to connect with us or we go down the road of option #2, and then you are someone else's problem. We get paid either way.

Best,  
Norman

4.59. Mr. Rodriguez's statements that signing an ISA with Elevate may or should cause Ms. Zeng to feel "embarrassment" and "like a fool" is an explicit acknowledgement that Elevate did not provide value to Ms. Zeng in exchange for the Zeng ISA.

4.60. Mr. Rodriguez's statement that Ms. Zeng "probably hasn't read" the ISA is also deeply disturbing, and suggests that Elevate's business model relies upon signing up its students for multi-year financial contracts that the students have not read and do not understand.

4.61. Mr. Rodriguez's collection email also is unfair and deceptive in numerous ways, including without limitation:

- a. Mr. Rodriguez falsely states and implies that the ISA is a valid and enforceable contract pursuant to which Elevate, through its servicer Leif, is entitled to collect payments. In truth and in fact, the Zeng ISA is and has always been unenforceable pursuant to RCW 28C.10.180.

b. Mr. Rodriguez falsely states that Elevate's assignee can and will "come after" Ms. Zeng's "employer." In truth and in fact, nothing in the ISA even purports to make the borrower's employer liable for monthly payments or other obligations. To the extent that this email states that a debt collector will "come after" Ms. Zeng's employer to do anything other than obtain her address and telephone number, or do anything to harm her professional reputation, such action would violate the federal Fair Debt Collection Practices Act and the Washington Collection Agency Act. *See* 15 U.S. Code § 1692c(b); 15 U.S. Code § 1692b(2) (prohibiting debt collector from stating that the consumer owes any debt); RCW 19.16.250 ("No licensee or employee of a licensee shall: ... (10) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except" in certain circumstances inapplicable here.). Elevate's threats of unlawful action are deceptive - because they cannot be followed through upon legally - and unfair.

4.62. Upon information and belief, Mr. Rodriguez's email to Ms. Zeng is a regular part of Elevate's business and has been sent to other former Elevate students, including those in Washington. For example, Mr. Rodriguez's mis-gendering of Ms. Zeng as "a guy like you" indicates that this is standardized text that he cuts and pastes into communications with a range of borrowers, at least sometimes taking little care to personalize it. This practice has the capacity for repetition, as well as the capacity to harm other consumers.

4.63. In addition to direct communications and threats from Elevate's officers, Elevate seeks to enforce the Zeng ISA through its servicer, Leif.

4.64. Leif's communications to Ms. Zeng include threats to send the unenforceable Zeng ISA to "collections." These communications state or imply that the Zeng ISA is an enforceable contract pursuant to which Leif may take "collection" action or enforce any other purported obligation.





1 declaration of the parties' rights under the Zeng ISA, and respectfully requests that the Court  
2 issue a declaration that the Zeng ISA is, and has always been, unenforceable.

3 **B. Declaratory Relief**  
4 **(Against Defendants)**

5 5.9. Ms. Zeng realleges and incorporates by reference the preceding paragraphs of  
6 this complaint as if fully set forth herein.

7 5.10. RCW 28C.10.170 provides:

8 If a student or prospective student is a resident of this state at the time any  
9 contract relating to payment for education or any note, instrument, or other  
10 evidence of indebtedness relating thereto is entered into, RCW 28C.10.180  
11 shall govern the rights of the parties to the contract or evidence of  
12 indebtedness. If a contract or evidence of indebtedness contains any of the  
13 following agreements, the contract is voidable at the option of the student or  
14 prospective student:

(1) That the law of another state shall apply....

14 5.11. The Zeng ISA states that that "[t]he validity, interpretation, construction and  
15 performance of this Agreement, ... and the rights and obligations of the Parties under this  
16 Agreement shall be governed by, construed, and interpreted in accordance with the laws of the  
17 State of New York, without giving effect to principles of conflicts of law."

18 5.12. Because the Zeng ISA provides that New York law applies, it is voidable  
19 pursuant to RCW 28C.10.170(1).

20 5.13. Ms. Zeng has validly exercised her option to void the Zeng ISA.

21 5.14. Upon information and belief, Defendants maintain that the Zeng ISA remains  
22 valid and enforceable.

23 5.15. Thus, an actual and justiciable controversy exists as between Ms. Zeng and  
24 Defendants concerning whether the Zeng ISA is void.

25 5.16. Accordingly, pursuant to RCW 7.24.010 *et seq.*, Ms. Zeng seeks the Court's  
26 declaration of the parties' rights under the Zeng ISA, and respectfully requests that the Court  
27

1 issue a declaration that the Zeng ISA is voidable pursuant to RCW 28C.10.170(1), that she has  
 2 exercised her option to void the ISA, and that the ISA is therefore void as of December 15,  
 3 2021.

4 **C. Per Se Violations of the Consumer Protection Act**  
 5 **(Against Elevate)**

6 5.17. Ms. Zeng realleges and incorporates by reference the preceding paragraphs of  
 7 this complaint as if fully set forth herein.

8 5.18. Washington’s Consumer Protection Act (“CPA”) provides that “[u]nfair methods  
 9 of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce  
 10 are hereby declared unlawful.” RCW 19.86.020.

11 5.19. Washington regulates private vocational schools like Elevate by statute, RCW  
 12 28C.10 and through regulations promulgated by the WTCECB. *See* WAC 490-105.

13 5.20. RCW 28C.10.210 provides that “[a] violation of this chapter or the rules adopted  
 14 under this chapter affects the public interest and is an unfair or deceptive act or practice in  
 15 violation of RCW 19.86.020 of the consumer protection act.”

16 5.21. As set forth above, Elevate has engaged in the following violations of RCW  
 17 28C.10, each of which constitutes a *per se* violation of the CPA:

18 a. Violating the Washington Legislature’s directive that “[a] private  
 19 vocational school, whether located in this state or outside of this state, shall not conduct  
 20 business of any kind, make any offers, advertise or solicit, or enter into any contracts  
 21 unless the private vocational school is licensed under this chapter.” RCW 28C.10.090.

22 b. Failing to “[u]se an enrollment contract form, catalog, brochure, or  
 23 similar written material affecting the terms and conditions of student enrollment other  
 24 than that previously submitted to the agency and authorized for use,” RCW  
 25 28C.10.110(2)(b), and which does not comply with the minimum standards established  
 26 in WAC 490-105-043.

27 c. Failing to ensure that any enrollment contract includes an attachment

1 approved by the WTCECB including a stipulation that Elevate discussed with Ms. Zeng  
 2 obligations in signing any enrollment agreement and incurring any debt for education  
 3 purposes, and providing “that the enrollment contract shall not be binding for at least  
 4 five days, excluding Sundays and holidays, following signature of the enrollment  
 5 contract by both parties.” RCW 28C.10.050(2)(i).

6 d. Representing “falsely, directly or by implication, that the school is an  
 7 employment agency, is making an offer of employment or otherwise is attempting to  
 8 conceal the fact that what is being represented are course offerings of a school.” RCW  
 9 28C.10.110(2)(c).

10 e. Representing “falsely, directly or by implication, in advertising or in any  
 11 other manner, the school's size, location, facilities, equipment, faculty qualifications,  
 12 number of faculty, or the extent or nature of any approval received from an accrediting  
 13 association.” RCW 28C.10.110(2)(f).

14 f. Making or causing “to be made any statement or representation in  
 15 connection with the offering of education if the school or agent knows or reasonably  
 16 should have known the statement or representation to be false, substantially inaccurate,  
 17 or misleading.” RCW 28C.10.110(2)(j).

18 g. Engaging “in methods of advertising, sales, collection, credit, or other  
 19 business practices which are false, deceptive, misleading, or unfair, as determined by  
 20 the agency by rule.” RCW 28C.10.110(2)(k). Elevate’s violation of the agency’s rules  
 21 include, but are not limited to, the following:

22 i. Using “the availability of financial aid as an inducement to recruitment  
 23 or enrollment.” WAC 490-105-170(2)(f).

24 ii. “[A]dvertising educational programs under the "help wanted" section of  
 25 publications.” WAC 490-105-170(3).

26 iii. “[A]dvertising and making offers of training without including the full  
 27 name under which the school is licensed by the agency.” WAC 490-105-

170(5).

h. Violating “RCW 28C.10.050(3) regarding the sale of, or inducing of students to obtain, specific consumer student loan products.” RCW 28C.10.110(2)(m).

i. Failing to follow the applicable minimum refund and cancellation policies. WAC 490-105.130.

5.22. Elevate’s violations of RCW 28C.10 are acts “in trade or commerce” because those acts constitute “the sale of assets or services, and any commerce directly or indirectly affecting the people of the state of Washington.” *See* RCW 19.86.010(2).

5.23. Elevate’s violations of RCW 28C.10 affect the public interest pursuant to the Legislature’s declaration in RCW 28C.10.210, and because they had or have the capacity to injure other persons. *See* RCW 19.86.093. For example, Elevate’s unlawful practices relating to the SDR Bootcamp had or have the capacity to injure others because they appear to be its standard business practice and part of a pattern, because it publicly advertised job postings for positions in Seattle, and its website displays the names and logos of Washington-based tech companies on a list of “Companies That Hire Elevate Members,”<sup>19</sup> such as Microsoft, Outreach, Traject, and Zoominfo. Moreover, Elevate’s website refers to “hundreds of Elevate members and alumni,”<sup>20</sup> and its LinkedIn page confirms that it continued to enroll new “cohorts” after Ms. Zeng’s experience.<sup>21</sup>

5.24. Plaintiff suffered injury to her business or property as a result of Elevate’s unfair and deceptive acts or practices in an amount to be proven at trial, but which includes, without limitation, fees to consult with an attorney to dispel uncertainty regarding the nature of her alleged obligations under the Zeng ISA, as well as the value of time diverted from her employment, in response to Elevate’s actions. *See Panag v. Farmers Ins. Co. of Washington*, 166 Wn.2d 27, 62, 204 P.3d 885 (2009) (injury element of CPA met by “expenses incurred in dispelling her uncertainty about the legal ramifications of the subrogation claim, including out-

<sup>19</sup> *See* <https://elevatehire.co/whyelevate>.

<sup>20</sup> *See* <https://elevatehire.co/whyelevate>.

<sup>21</sup> *See* <https://www.linkedin.com/company/elevatehire-co/posts/?feedView=all>.

1 of-pocket expenses for postage, parking, and consulting an attorney”).

2 **D. Non-Per Se Violations of the Consumer Protection Act**  
 3 **(Against Elevate)**

4 5.25. Ms. Zeng realleges and incorporates by reference the preceding paragraphs of  
 5 this complaint as if fully set forth herein.

6 5.26. Elevate engaged in the following unfair and deceptive acts or practices, in  
 7 violation of RCW 19.86.020:

- 8 a. Advertising the SDR Bootcamp in a job posting on LinkedIn.
- 9 b. Failing to disclose the material fact that Elevate was not licensed to operate a  
 10 private vocational school in Washington.
- 11 c. Creating the deceptive net impression that the SDR Bootcamp was selective in  
 12 its admissions process, that time was of the essence to enroll, that the completing  
 13 the Leif ISA application was an “assignment.”
- 14 d. Representing in the Zeng ISA itself and in subsequent communications  
 15 (including communications seeking to enforce or collect upon it) that the Zeng  
 16 ISA was an enforceable contract, when in truth and in fact the Zeng ISA is and  
 17 always has been unenforceable.
- 18 e. Encouraging Ms. Zeng to participate in the SDR Bootcamp despite the fact that  
 19 she had independently secured employment as an SDR prior to beginning  
 20 classes.
- 21 f. Misrepresenting the terms and conditions of the Zeng ISA.
- 22 g. Soliciting and entering into an unconscionable contract – i.e., the Zeng ISA.
- 23 h. Threatening to take actions to enforce or sell the Zeng ISA that Elevate and/or  
 24 its assigns could not lawfully take.
- 25 i. Omitting language from the Zeng ISA required by the FTC’s Holder Rule.<sup>22</sup>

26 5.27. These acts or practices are within trade or commerce because they relate to the

27 <sup>22</sup> For the avoidance of doubt, Ms. Zeng is not asserted a claim or seeking relief under the Holder Rule itself.  
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1 advertising and sale of educational services, and the attempted enforcement of a contract arising  
 2 out of that advertising and sale. *See, e.g., Consumer Financial Protection Bureau v. CashCall,*  
 3 *Inc.*, No. CV157522JFWRAOX, 2016 WL 4820635, at \*10 (C.D. Cal. Aug. 31, 2016) (holding  
 4 that it was a deceptive act or practice to seek to service or enforce rights under void loan because  
 5 it created “the ‘net impression’ that the loans were enforceable and that borrowers were  
 6 obligated to repay the loans in accordance with the terms of their loan agreements” when in fact  
 7 “that impression was patently false — the loan agreements were void and/or the borrowers were  
 8 not obligated to pay”).

9 5.28. These unfair and deceptive acts and practices affect the public interest because  
 10 they have injured other persons, or have the capacity to injure other persons. These practices  
 11 consist of public advertising, arise out of the contents of Elevate’s ISA, which appears to be a  
 12 standardized form issued to all of Elevate’s Washington borrowers, practices in SDR Bootcamp  
 13 recruitment, and conduct in Elevate’s regular communication with borrowers seeking to enforce  
 14 ISAs. For example, Mr. Rodriguez’s collection email appears to be Mr. Rodriguez’ template  
 15 collection threat communication, because he appears to cut-and-paste it into communications  
 16 with different borrowers without bothering to personalize it (for example, mis-gendering Ms.  
 17 Zeng by failing to change masculine pronouns).

18 5.29. Plaintiff suffered injury to her business or property as a result of Elevate’s unfair  
 19 and deceptive acts or practices in an amount to be proven at trial, but which includes, without  
 20 limitation, fees to consult with an attorney to dispel uncertainty regarding the nature of her  
 21 alleged obligations under the Zeng ISA, as well as the value of time diverted from her  
 22 employment, in response to Elevate’s actions. *See Panag*, 166 Wn.2d 27 at 62.

23 5.30. In addition, to the extent that Elevate takes any action to assert any claim  
 24 pursuant to the unenforceable and void Zeng ISA, whether as a counterclaim in this lawsuit, an  
 25 arbitration or other action, or otherwise, Ms. Zeng reserves the right to amend her complaint  
 26 and seek damages in the amount of costs and legal fees expended to defend against such  
 27 action(s). *See Ten Bridges, LLC v. Midas Mulligan, LLC*, 522 F. Supp. 3d 856, 873 (W.D.

1 Wash. 2021) (legal costs incurred to defend interest and oppose party's assertion of rights  
2 under unlawful contract were injury under CPA).

### 3 **E. Violations of the Consumer Protection Act**

#### 4 **(Against Leif)**

5 5.31. Ms. Zeng realleges and incorporates by reference the preceding paragraphs of  
6 this complaint as if fully set forth herein.

7 5.32. Leif engaged in unfair or deceptive acts or practices by:

- 8 a. Creating and assisting Elevate in distributing and entering into the Zeng ISA and  
9 ISAs with other Washington residents that falsely state that they are enforceable  
10 contracts, when in truth and in fact the Zeng ISA and other ISAs issued to  
11 Washington residents by Elevate at times it was unlicensed by the WTCECB are  
12 and always has been unenforceable.
- 13 b. Creating and assisting Elevate in soliciting and entering into unconscionable  
14 contracts – i.e., the Zeng ISA and ISAs issued to other Washington residents.
- 15 c. Omitting language required by the FTC's Holder Rule from the Zeng ISA and  
16 ISAs issued to other Washington residents.<sup>23</sup>

17 5.33. Leif also engaged in unfair or deceptive acts or practices by sending emails to  
18 Ms. Zeng asserting, implicitly and explicitly, that the Zeng ISA was an enforceable contract and  
19 that Ms. Zeng was required to comply with the obligations it purported to place on her. Leif  
20 further engaged in unfair or deceptive acts or practices by threatening to take actions to enforce  
21 the Zeng ISA which it could not lawfully take.

22 5.34. These acts or practices are within trade or commerce because they relate to the  
23 attempted enforcement against a Washington resident of a contract arising out of the advertising  
24 and sale of educational services.

25 5.35. These unfair and deceptive acts and practices affect the public interest because  
26 they have injured other persons, or have the capacity to injure other persons. These practices

27 <sup>23</sup> For the avoidance of doubt, Ms. Zeng is not asserted a claim or seeking relief under the Holder Rule itself.  
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1 consist of Leif's regular and standardized communication with borrowers seeking to enforce  
2 ISAs. This conduct is part of Leif's regular business and is capable of repetition.

3 5.36. Plaintiff suffered injury to her business or property as a result of Leif's unfair  
4 and deceptive acts or practices in an amount to be proven at trial, but which includes, without  
5 limitation, fees to consult with an attorney in an attempt to dispel uncertainty regarding the  
6 nature of her alleged obligations, as well as the value of time diverted from her employment, in  
7 response to Leif's unfair and deceptive actions. *See Panag*, 166 Wn.2d at 62.

8 5.37. In addition, to the extent that Leif takes any action to assert any claim pursuant  
9 to the unenforceable and void Zeng ISA, whether as a counterclaim lawsuit, an arbitration or  
10 other action, or otherwise, Ms. Zeng reserves the right to amend her complaint and seek  
11 damages in the amount of costs and legal fees expended to defend against such action(s). *See*  
12 *Ten Bridges*, 522 F. Supp. 3d at 873.

13 **F. Negligent Misrepresentation**  
14 **(Against All Defendants)**

15 5.38. Ms. Zeng realleges and incorporates by reference the preceding paragraphs of  
16 this complaint as if fully set forth herein.

17 5.39. As alleged in more detail above, each of the Defendants supplied information to  
18 Ms. Zeng for guidance in her business transactions – i.e., entering into a contract with Elevate  
19 and her purported obligations under the Zeng ISA – that was false.

20 5.40. Each of the Defendants knew or should have known that the information they  
21 supplied to Ms. Zeng was to guide her in her business transactions because Elevate and Leif  
22 were seeking to enter into a business transaction with her, and to enforce the purported terms  
23 of a contract with her.

24 5.41. Each of the defendants was negligent in obtaining or communicating the false  
25 information.

26 5.42. As alleged in more detail above, Ms. Zeng relied on the false information  
27 supplied by Defendants, including without limitation when she chose to sign the Zeng ISA and

1 participate, however briefly, in the SDR Bootcamp.

2 5.43. Ms. Zeng's reliance on the false information supplied by each defendant was  
3 reasonable.

4 5.44. The false information supplied to Ms. Zeng proximately caused her to suffer  
5 damages in an amount to be proven at trial.

6 **VI. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff Ms. Zeng prays for the following relief:

- 8 1. Enter judgment declaring Ms. Zeng's ISA to be unenforceable;
- 9 2. Enter judgment declaring Ms. Zeng's ISA to be voidable, and that she has  
10 effectively exercised her option to void it, such that the Zeng ISA is void;
- 11 3. Award Ms. Zeng her actual damages, as well as treble damages pursuant to the  
12 CPA, together with pre-judgment interest and post-judgment interest;
- 13 4. Award Ms. Zeng her costs and reasonable attorney's fees, pursuant to the CPA,  
14 RCW 19.86.090;
- 15 5. Enter appropriate injunctions prohibiting Defendants from engaging in  
16 violations of the CPA toward Ms. Zeng and other Washington residents pursuant to Ms. Zeng's  
17 action as a "private attorney general" under the CPA; and
- 18 6. Any other relief the Court deems just.

19  
20 DATED: December 16, 2021.

21  
22 JENSEN MORSE BAKER PLLC

23  
24 By s/ Benjamin J. Roesch  
25 Benjamin J. Roesch, WSBA No. 39960  
[benjamin.roesch@jmblawyers.com](mailto:benjamin.roesch@jmblawyers.com)  
26 (206) 664-1835

27 Attorneys for Plaintiff

# ***EXHIBIT A***



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